

SELECT COMMITTEE INTO ELDER ABUSE

INQUIRY INTO ELDER ABUSE



**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
MONDAY, 26 MARCH 2018**

SESSION TWO

Members

**Hon Nick Goiran, MLC (Chair)
Hon Alison Xamon, MLC (Deputy Chair)
Hon Matthew Swinbourn, MLC
Hon Tjorn Sibma, MLC**

Hearing commenced at 11.05 am**Mr BRIAN ROCHE****Public Trustee, sworn and examined:****Mr MICHAEL BOWYER****Principal Legal Officer, Public Trustee, sworn and examined:**

The CHAIRMAN: On behalf of the committee, I would like to welcome you to today's meeting. Before we begin I would like to ask whether you will take the oath or affirmation.

[Witnesses took the oath.]

The CHAIRMAN: You will have both signed a document entitled "Information for Witnesses". Have you read and understood that document?

The WITNESSES: Yes.

The CHAIRMAN: Thank you. These proceedings are being recorded by Hansard and broadcast on the internet. A transcript of your evidence will be provided to you. To assist the committee and Hansard please quote the full title of any document you refer to during the course of this hearing for the record and please be aware of the microphones and try to talk into them. Ensure that you do not cover them with papers or make noise near them. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. Before we proceed to the questions we have for you this morning, would you like to make an opening statement to the committee?

Mr ROCHE: If I could, that would be great. Thank you for the opportunity to appear as a witness before this important inquiry into elder abuse. It has been very pleasing in the last few years to see this important topic attract more attention from policymakers, media and the general community. Every single Australian is at risk of elder abuse at some point in their lives. Talking about elder abuse can be a very uncomfortable conversation. At present, I am the Public Trustee of Western Australia. The Public Trustee is both a statutory office holder and body corporate. The Public Trustee provides a range of will, deceased estate and trustee services to the community. Many of our clients are the most vulnerable in the community.

The Public Trustee is part of the Department of Justice. I act independently in discharging my duties and responsibilities according to the powers vested in me under the provisions of the Public Trustee Act 1941. If a person is not happy with any of my decisions, they can write to the Attorney General and a person can also make a complaint to the Ombudsman of Western Australia, who can investigate complaints about my decisions. Under the Public Trustee Act 1941, I am required each year to enter into an annual agreement with the Attorney General. The agreement prescribes new fees or changes to existing fees as well as the circumstances in which money can be transferred to or from reserve funds. The Public Trustee is also required to provide an annual report to the minister, which is tabled in Parliament each year. My dedicated officers and I are committed to play an active role in raising awareness about the dangers of elder abuse in the community and achieving

the very best outcome for our clients, including those who have suffered the most common form of elder abuse, financial abuse.

Last year, I was very fortunate to be awarded a Churchill Fellowship from the Winston Churchill Memorial Trust Australia and in August I will travel to the United Kingdom and Canada to investigate a supported–decision-making model, which, if introduced in Australia will achieve better outcomes for the most vulnerable in the community, particularly among Indigenous and immigrant groups and, hopefully, lead to a reduction in financial elder abuse.

[11.10 am]

The CHAIRMAN: Thank you. As is the practice of this committee, we intend to go through each of the terms of reference. We thank you at the outset for your written submission, dated 13 November 2017, which is publicly available, which in turn has made comment in respect to each of the terms of reference. I do not have any immediate questions for you in respect to term of reference (a), which is to determine an appropriate definition of elder abuse, because I note that you have indicated your support for the World Health Organization’s definition, and that is now consistent with the latest elder abuse protocols that have been released by APEA, of which I note that you are one of the 12 members.

Mr ROCHE: Yes. The World Health Organization definition just brings in paid caregivers. Previously the old APEA definition had informal relationships; this talks now about relationships of trust. It sort of covers both, and I think it is a much better definition.

The CHAIRMAN: And it is not age-specific.

Mr ROCHE: No.

The CHAIRMAN: Yes.

Mr ROCHE: It might change. Obviously the Australian Institute of Family Studies, in doing their prevalence study—I think stage 1 involves them also again looking at this issue of definition. So it may or may not change in the future, but certainly at the moment that is pretty much the widely accepted definition.

The CHAIRMAN: Anything on definition?

Hon ALISON XAMON: Yes. The Public Advocate made comment that it would not necessarily cover the small number of people they see who may come into somebody’s life through association—perhaps a neighbour; they mentioned someone they had met on a bus. We have had previous evidence about—I do not know—a fellow parishioner from the church. Do you think perhaps there is scope for it to be extended further in order to deal with those relationships which would not be considered relationships of trust as per the current definition, but where there are still vulnerabilities?

Mr ROCHE: I imagine the Australian Institute of Family Studies will probably look at those sort of aspects. I would have thought for a neighbour, I would almost incorporate it as a position of trust, but maybe the person you meet on the bus, not. But, yes, I would be supportive of, that of course, yes. I think they will look at that as part of their deliberations in looking at definition.

The CHAIRMAN: Moving to the issue of identifying prevalence, in your submission you do touch on this. In particular I note that your office undertook 51 new investigations into financial elder abuse in the year ending 30 June 2017. Are you able to make some comments in terms of general trends that you are noticing?

Mr ROCHE: Yes, sure. It was interesting, because up until a few years ago really the term “elder abuse” was not as prevalent as it is now. I was at an estimates hearing, going back four or five years

ago—time gets away from me—and I was asked a question about how I did not seem to report and capture statistics about financial elder abuse in my annual report, as the Public Advocate was doing at the time. I thought it was a very good observation, to be honest, but again it just was not as in your face as perhaps it is now. So I gave a commitment to start recording new investigations and report that in our annual report. I think we have now done that for two or three years. Last year dropped off a little bit. I think we had, as you say, 51; I think the year before was 81. When I inquired before coming to this inquiry, we have about 49 in the year to date. If you extrapolate that to 30 June, we will certainly go above the 51, I suspect, that we had last year. If you look at the fact we probably get on average—I think last year we had 693 appointments from SAT; the year before was roughly around 684. If we are getting 700 new client cases each year and we are getting 50, 60, 70 that perhaps fall into that bracket of potentially investigations into elder abuse, that is probably about where the studies have shown. They have said about five to 10 per cent are subject to elder abuse, so our stats would support that. I guess the trend appears that it is certainly a live issue, and the statistics are a little bit hard for me because I am not looking after all in the community who might be subject to elder abuse. But, certainly, we have gone from 81 to 51, to now 49 and likely to go well above 49 by the end of the year. So it is certainly an issue in the community, and I would think, given our figures are going to be higher this year than last year, the trend seems to be that it is certainly not dropping away.

Hon ALISON XAMON: In terms of trends, though, are you noticing that it tends to be more children of older people or the spouse? Where are you seeing that financial abuse is occurring?

Mr ROCHE: It is a little bit all over the place. In coming to the inquiry, I had the guys in trust break down the 51 and I had a little look. It was interesting because about 12 of them were EPAs, and I thought that might have been even a little bit higher. They are all over the place.

Hon ALISON XAMON: So people who had been put in positions of trust and then abusing it?

Mr ROCHE: Misusing, or an allegation of misusing an EPA. Twelve out of the 51 involved an EPA. A lot of them were someone who thought the neighbour might have been taking advantage of an elderly neighbour. Some of them certainly were children. I think on the evidence it appears predominantly that it is children, and I think probably again, anecdotally, it appears that perhaps it is more male than female children who seem to be taking advantage. But I think it can be all over the shop, to be honest. It is certainly children who seem to be doing the bulk of it. That is not to say there are not neighbours or friends taking advantage, but it does seem to be, unfortunately, children.

Hon ALISON XAMON: Yes, we have heard evidence about this idea of inheritance impatience.

Mr ROCHE: Yes, I think we certainly witness that quite regularly at times. There have been a couple of recent cases that have come to the media attention as well where we have seen that.

Hon ALISON XAMON: Did you want to perhaps elaborate?

Mr BOWYER: Yes. They also call it early inheritance syndrome, and I have been in a room, for instance, where a woman said, “That’s mine. It’s been left to me in the will”, and my response is, “But he’s not dead yet, and he needs the money now.”

Mr ROCHE: I think rising house prices—there are all sorts of pressures that come to bear, I think, for people to get hold of mum and dad’s money a bit quicker than they would like. The fact is we are living longer, too. My own dad has had a lot of health issues in the last few years, and maybe 20 or 30 years ago he would already have gone and passed. Medical technology and medicines and everything is keeping us alive longer so the kids are not getting the inheritance they might have got

when their parents were in their 60 or 70s. Their parents are now living—like my own—into their 80s and 90s. So that is probably causing some of it too.

The CHAIRMAN: You obviously do investigations into the elder abuse matters, and so does the Office of the Public Advocate. What is the distinction between those investigations?

Mr ROCHE: We do not really do investigations until we are appointed, I guess. OPA will—how would you distinguish the two?

Mr BOWYER: Let us take a typical scenario. Let us say an elderly woman has two children—a son and a daughter. The son persuades the mother to sign over the house property, for instance. What will then happen is that the daughter, whether it is out of genuine concern for her mother or whether it is because she sees her own inheritance slipping away or whether it is because —

Hon ALISON XAMON: A bit of both.

Mr BOWYER: Yes—or whether it is because she hates her brother or a combination of all those reasons, is obviously concerned about this, therefore may then make an application to the State Administrative Tribunal for an administration order to be made or may just simply contact the Office of the Public Advocate.

Mr ROCHE: For advice.

Mr BOWYER: Yes. The Public Advocate then sometimes will do an investigation itself and then an application to the State Administrative Tribunal might be made, or sometimes the application gets made straight to the State Administrative Tribunal and that tribunal then directs the Public Advocate to do an investigation. What happens often in that situation is both the son and the daughter are found to be unsuitable to be administrators because of the family conflict; obviously the son cannot because he has a conflict of interest and sometimes the daughter either does not want to or it just may not be appropriate in those circumstances. So then the Public Trustee gets appointed. We can then look at what the Public Advocate has already investigated, but we then focus on trying to get the money back or trying to get some outcome to make sure that the lady has enough to look after herself for the rest of her life. The Public Advocate's investigation focuses on whether there is a need for an administration order and who should be the administrator; whereas, our investigation then focuses on —

Mr ROCHE: Once we have the order —

Mr BOWYER: Yes, we have the order. How are we then going to do the best by our client.

[11.20 am]

The CHAIRMAN: I think that is helpful. Moving now to forms of elder abuse, which is term of reference (c); you touch on this at page 4 of your submission. Can you comment on the prevalence of the different types of financial elder abuse that you refer to in your submission?

Mr ROCHE: We certainly see a misuse of EPA—that is obviously one form. But also these days, to be honest, with electronic banking and various ways—I guess 20 years ago you might have had to take mum or dad into the bank and to be able to get them to use their passbook or whatever it might have been and the bank might have been able to identify that something does not look right. But these days, to be honest, if you have managed to get mum's password and go online, you can do some serious financial misuse without ever going into a bank. We certainly see examples of that. We see examples perhaps of someone being pressured or coerced in order to sign documents to transfer property or transfer other assets or shares. We certainly see sometimes someone might have forged a signature. They are the various different forms. They have got hold of a PIN. Mind you, these days with debit cards and so forth, you do not even need a PIN up to \$100. If you get a

hold of mum's card, you can certainly do a number of transactions under \$100 without ever having anybody really probably pull you up on it. You can misuse in lots of different ways, unfortunately, without necessarily always being the EPA. We see all sorts of different ways of misusing people's finances.

Hon ALISON XAMON: Is there a particular vulnerability that sticks out or is it pretty much a problem across the board?

Mr ROCHE: I think it is across the board, but it is obviously when there is more dependence. If mum or dad are living with someone and they are very isolated—that is not a common circumstance; I think people can be often surprised. There are a lot of elderly who live very well independently and by themselves and so forth, but I think people become particularly vulnerable if perhaps they think it might be a good idea to sell their property and move in with their child because their child is going to provide care for them as they age. But there comes a time then when they are very, very dependent, because where do they go if they make a complaint? A lot of times the clients who we deal with do not want to make a complaint; they do not want to escalate it; they do not want the police involved. Those are the clients we are able to have those discussions with because, to be honest, a lot of the clients we are appointed have such a cognitive impairment or a mental disability that they are not always able to assist us with making some of those determinations as well. They may well have really progressed dementia, a brain-acquired injury or are so affected by mental illness through drug abuse or whatever it might be that they are not able to assist us anyway. But the ones that perhaps are in a position to help us, often do not want to. It is their children so, in a lot of circumstances, they are not very keen to perhaps escalate it to the point of involving the authorities. They much prefer to have it mediated and settled.

Mr BOWYER: I have found that the thing that really connects most of them, or a large portion of them, is that it is family members who do it to other family members. The means have varied a lot over the years. Enduring powers of attorney were the big thing at one point, but now there are so many different ways you can do it.

Mr ROCHE: I think you are right, absolutely. That is why of the 51 last year, only 12 of them involved EPAs because there are so many other pervasive ways to do it.

Hon ALISON XAMON: Is it fair to say that in terms of protections for people against financial elder abuse that the changes to the way we do banking have not kept pace around ensuring protections?

Mr ROCHE: There is a balance there, though, is there not? I complained a little bit a minute ago about PayPass but I love the idea of using it myself as well.

Hon ALISON XAMON: But you are competent.

Mr ROCHE: Yes; but there is a balance.

Mr BOWYER: Back in the 1970s, if you wanted to get a loan, you probably had to be a male first, and thankfully that has changed. But if you wanted to get a loan, you would go to the bank, and you would go to the manager of the bank where you had been going for some time.

Hon ALISON XAMON: You would have a relationship.

Mr BOWYER: Whereas now a lot of that stuff is just done online.

Mr ROCHE: And over the phone.

Mr BOWYER: Yes. I suspect that banks have risk management processes in place and I suspect that they have reserves of money they keep aside so when things do go wrong, they can pay out.

Mr ROCHE: I am sure the royal commission into the banks is going to deal with some of this too.

Hon ALISON XAMON: I hope so.

Mr ROCHE: Me too.

The CHAIRMAN: I think that leads us nicely to term of reference (d), which is to look at the risk factors. You have touched on the different forms of elder abuse. Are there any groups of elderly who are more prone or at greater risk of abuse—for example, women, Aboriginal older people or people from culturally and linguistically diverse backgrounds—that you have noticed in your investigations and work?

Mr ROCHE: No single group pops out. It is really quite diverse in terms of what we see. As I mentioned before, social isolation is a big factor. Dependence is a big factor. The ability of children to use their grandchildren as a threat—they will cut off access to grandchildren if you tell me off or go to authorities, and those sorts of things. I think ageism is a big issue. I know law reform is important and I am sure we will address it. The ALRC has made some really good recommendations and this would be some really good law reform, but there is a lot socially we can probably do. I do not think we value people who are elderly perhaps as much as we should. I think we all value youth and vitality, and as a society we do not place as much importance on age and valuing people as they get a little bit older. I think you go in and think, “They’re just elderly. They don’t matter as much.” There is that terrible pervasive view at times. We have a lot to do in terms of socially dealing with it. I think ageism is an issue in itself, that is all. Social isolation is an issue, and the fact that they have a cognitive impairment or a mental disability makes them very vulnerable. Even if they have early dementia, I know it is progressive and will get worse and worse, but if you have some form of mental disability, you are vulnerable and it is only a matter of degree as to how vulnerable you are. We see so many different types and situations.

The CHAIRMAN: Is the Public Trustee involved in some education or awareness raising initiatives, particularly for those who might be socially isolated and those who are prone to being dependant?

Mr ROCHE: Within the resources we have we do what we can. We did about 24 presentations of seminars last year. Last week was WA Will Week, for instance. You may or may not have heard something on the radio. We had a number of sessions in the city and in the regions as well. In actual fact, I was contacted by Geraldton to have one up the north west because we have one down in Busselton and Bunbury in another week or two. We do Law Week, Seniors Week and Will Week. We always recognise World Elder Abuse Awareness Day on 15 June and we do a seminar usually in conjunction with the Public Advocate. We also do private administrator training. We do that quarterly, when we invite all private administrators that get appointed by the State Administrative Tribunal to an information and training awareness session. As well as all these opportunities, we are often invited by local government; the City of Melville comes to mind. We have done talks at Murdoch University. We often get asked to come to address people about issues to do with estate planning and also elder abuse. We do what we can with the resources we have to raise awareness. But there are others. The Department of Communities is the lead agency and Health do a lot. Pauline does a great job in the public advocate’s office as well, trying to raise awareness. Community education is definitely key. Advocare, obviously, manages the helpline; I think government gives them a grant to do the helpline. There are lots of different people trying to do as much as they can, but we could even do more to raise community awareness.

Hon ALISON XAMON: If there was more resourcing, you could do more?

Mr ROCHE: Yes, not just with me, I am just talking broadly.

Hon ALISON XAMON: Across the board?

Mr ROCHE: Yes, for sure.

The CHAIRMAN: Of the 12 members of APEA, who would you say is best placed to be the lead on education and awareness?

Mr ROCHE: You will probably forgive me because I am not sure of the name of the department, but I would have thought communities, in whatever guise it currently is.

Hon ALISON XAMON: It is the Department of Communities.

Mr ROCHE: Is it still called the Department of Communities? Okay, I think the Department of Communities would be the lead agency to do that. I think through that, that department is the one that gives the grants to Advocare and probably funds Advocare. I think it is probably Communities, but I know Health does a little as well, and Police where it can. But I would think Communities.

The CHAIRMAN: You mentioned, I think, that last year you did 24 sessions.

Mr ROCHE: I will double-check that, but around that; yes.

The CHAIRMAN: And have some coming up. Would you be able to just write to the committee to let us know when some of the next upcoming sessions are being planned?

[11.30 am]

Mr ROCHE: Yes, I would be more than happy to.

The CHAIRMAN: One or more of the members might be interested to come along and listen to what one of the sessions look like.

Mr ROCHE: They are all free, of course, and they are always well attended. We get a very good attendance.

Mr BOWYER: Legalwise, sometimes with the Law Society, have asked me to do talks. I am chairing a Legalwise seminar later this year that will deal with various areas to do with the law, which can touch on elder abuse, and someone else from the Public Trustee will be chairing another seminar, too, later on that day. For lawyers, we do continuing professional development—the CPD points and that sort of stuff—although that is something you have to pay for.

The CHAIRMAN: The committee is due to report to Parliament in September, but if you could take on notice what sessions are planned between now and September, let us know and if the committee is available, we could attend them.

Mr ROCHE: We would be more happy to, or what we do on an annual basis to give you an idea. We talk about the importance of wills; the importance of EPA; the importance of choosing wisely; and your donee in an EPA. We talk about our Will Bank, which is a free resource in which people can lodge their wills. We talk about the dangers sometimes of elder abuse, where we can.

The CHAIRMAN: That will be the first question on notice. We will move then to term of reference (e), which is to assess and review the legislative and policy frameworks. One of the issues that came out of the previous session, which your counterpart, the Public Advocate, suggested that we would be better off asking you was this question: are you aware of any avenues for remediation or compensation that exist for victims of financial elder abuse.

Mr BOWYER: What was the first word? I heard “compensation”.

The CHAIRMAN: Remediation.

Mr ROCHE: I was going to say that under the act there are obviously penalties, but also if you refer a matter to police for fraud or stealing.

Mr BOWYER: There are several ways we can get the money back in some ways. First of all, if a transaction takes place within two months of an administration order being made by SAT, the

State Administrative Tribunal has the power to set aside that transaction and to make orders. The problem with that is two months is a very short period of time. It is a hangover from the days when it was much easier to have people declared not capable of managing their finances.

Mr ROCHE: We have recommended that it be increased.

Mr BOWYER: Yes; there is a proposal to change that to six months. That is one way. Another way is going to the Supreme Court. Financial transactions can be set aside in the Supreme Court on the grounds that someone lacked the capacity to make them and the other person knew or ought to have known that. They can be set aside on the grounds of undue influence or they can be set aside on the grounds of unconscionable conduct. Sometimes those three are pleaded at the one time. The State Administrative Tribunal has the power to issue injunctions to freeze people's assets. It does not happen that often but it does happen, and sometimes that will bring people to the negotiating table. There are times that if a person is convicted of a criminal offence, which does not happen very often for the reasons that Brian said—it is hard to prove those things—under the Sentencing Act, the court does have the power to make compensation orders as well. Also, if someone does abuse an enduring power of attorney, they can be sued in the Supreme Court for breach of that enduring power of attorney and for breach of their duties, and then compensation can be ordered. There are different ways it can happen. Generally speaking, these matters do not go to defended hearings; they are negotiated before they get to that stage.

The CHAIRMAN: In terms of a misuse of a power of attorney, one option is the civil litigation route to plead a breach of duty and seek compensation through that mechanism?

Mr BOWYER: Yes.

The CHAIRMAN: That is assuming that person sued has means?

Mr BOWYER: Yes. That is the thing. That is one of the problems; sometimes the horse has bolted.

The CHAIRMAN: But, if not, under the criminal jurisdiction, you might make a complaint to the police for fraud?

Mr BOWYER: Yes, but it is very hard to do that. Normally, if you or I get defrauded, we can go to the police and can say, "I did not authorise this. I did not receive these services. I did not do this and I am prepared to give evidence." In the last 10 years, we have had two situations where people in civil matters, who had been placed under some sort of order restricting their decision-making, gave evidence in defended proceedings—at least two cases, but certainly the two I am thinking of—and in neither case was it a happy experience. The court did not accept the evidence, because obviously when people have a lack of decision-making ability, such as dementia, when they are in the witness box, the first question in cross-examination is, "Did you agree to this?", and "Oh, yes, sure; no problem." They will have difficulty understanding an oath or affirmation in some cases as well.

Mr ROCHE: We try very hard to settle and mediate rather than going to the courts or even referring matters to the police. We have referred matters to police and we do refer matters to police, but you raise the bar. If you are trying to negotiate a settlement, like a couple of recent ones in which we were very successful in getting moneys back and securing people's assets and getting transfers back, the minute you talk about that, they clam up; they will lawyer at 10 paces and it becomes very adversarial and very difficult. So we do not tend to use that card very often, to be honest. We try to get the very best outcome for, first, the client in a lot of circumstances if they have capacity in some form and do not want to raise that bar, because it is usually their son or daughter or grandchild or whatever who has perhaps misused their funds or done something bad. It just raises the whole level up if you start talking about going to court or involving the police. We try to get the best outcome first and then we will look at that a bit further down the track.

Hon ALISON XAMON: We have received evidence that often the defence given is that it was a gift, and once that is done, it is almost as though the whole onus of proving that it was not a gift suddenly falls on the person whose money has been taken.

Mr ROCHE: It can be very difficult.

Hon ALISON XAMON: Do you have any comments about that?

Mr BOWYER: Sometimes people also say it was a loan. Sometimes there can be loan agreements, and probably if you touched the loan agreements, the ink might be smudged on these loan agreements. Yes, it is very difficult when your best witness cannot give evidence. That is the problem. I can give another example of elder abuse—I can mention names because it went to the Supreme Court and was a public thing—where we managed to expand the law about elder abuse. That was the case of Ah Bee Mack. This was a lady who had two sons, Brent and Adrian. Brent murdered her and covered it up for some time. Under the law, the forfeiture rule, Brent was not allowed to benefit from her deceased estate, so Adrian got her whole estate. However, before the estate was distributed to Adrian, he himself died, and so Brent was entitled to some of Adrian's estate. The question was whether Brent could indirectly benefit from his mother's death by the estate going from his mother to Adrian and then to him. There had been no cases on this in Australia that we could find, but there were some American decisions. The Supreme Court followed the American decisions and said that in these circumstances he could not indirectly benefit from his mother's death and, therefore, he did not get any of his mother's estate, either directly or indirectly, except, of course, the part he had stolen before we found out about it.

Mr ROCHE: But you are right: there is always a grey area about we will use gifting as a defence. But then we have to make judgement on the facts before us, and if we feel it does not stand up, we will certainly take action.

Hon ALISON XAMON: I am just wondering, though, what the parameters are around the limitations on people, particularly with power of attorney, from being able to use gifting as a defence. I thought that if you have a power of attorney, you effectively cannot gift yourself.

Mr BOWYER: There is a fair bit of grey. SAT had made a few decisions on this. In one decision, SAT said that an attorney can make gifts, but they have to look at a number of different factors in doing so to see that it is in the interests of the person. There was then a decision from the president of SAT that said, generally speaking, an attorney cannot make gifts to himself or herself, but there are some exceptions to that. One exception, for instance, is sometimes if a person is in a familial relationship, that might be all right. There is also if there is something in the power of attorney itself. Another example is if the gift has been made and if the transaction has taken place, and the donor with the enduring power of attorney does not do anything about it, they can be taken to have then acquiesced in the transaction.

It is not a blanket absolute no. Under the Guardianship and Administration Act, there is a provision that says that an administrator cannot make gifts or various things that are classed as gifts, although even then the tribunal has given some room to move on that, as well as what does class as a gift and what does not.

[11.40 am]

Mr ROCHE: We actually did make a recommendation so that gifts would have to be authorised by SAT or the donor.

Hon ALISON XAMON: That would be an area of law reform that you think would be particularly helpful?

Mr ROCHE: That is in the statutory review that was tabled in Parliament; it is one of the recommendations.

The CHAIRMAN: That is the second time that you have mentioned a recommendation from your office. The other one was the increase in the clawback provision following a SAT order from two months to six.

Mr ROCHE: To set aside transactions from two to six, yes.

The CHAIRMAN: So that is all found in the statutory review?

Mr ROCHE: Yes, that I understand was tabled probably around December 2015 in Parliament. I think the government is still considering its position.

The CHAIRMAN: In terms of this issue of offences in the event of a misuse of a power of attorney, would you see any benefit in a specific criminal offence being made on the misuse of a power of attorney rather than the situation that we have at the moment—fraud, stealing?

Mr BOWYER: Currently, there is an offence but it only covers various things, such as not keeping proper records under the Guardianship and Administration Act.

The CHAIRMAN: I should clarify. I am keen to tackle the situation where someone intentionally uses a power of attorney in the full knowledge that it has now been superseded by a newer power of attorney.

Mr BOWYER: There are pros and cons of that. For a start, if people want to use the power of attorney, sometimes they may have to make a statutory declaration; for instance, they have to tell Landgate that this power of attorney is still in force. To some extent, it may not be needed. Also, sometimes by holding out that you hold an authority when you know full well that you do not hold that authority, that could be fraudulent. In some ways, having a specific offence provision could deter some people from committing those offences. On the other hand, if we make things too restrictive with enduring powers of attorney, or if we make the punishments too great with enduring powers of attorney, people will not want to do them. There are a lot of enduring powers of attorney that are working perfectly well, but also they may turn to other methods of elder abuse. For instance, they could just get mother to make them a signatory on a bank account and there you do not have the same sorts of protections or supervision. In fact, if you are the signatory on someone's bank account, the expectation might be that you do use that person's money for yourself. Or they might just go back to common law powers of attorney. In theory, a common law power of attorney is revoked when a person loses a decision-making capacity, but in practice it is not like the document will suddenly turn a different colour when that happens.

Mr ROCHE: I think the Australian Law Reform Commission in its report looked at this issue as well about whether the law currently covered it, and I think they did not recommend any particular offences, other than the ones that are already on the books.

The CHAIRMAN: That is helpful.

Hon ALISON XAMON: One of the things that we have been looking at as well is the central repository of old powers of attorney.

Mr ROCHE: The register, you mean?

Hon ALISON XAMON: Yes, the register. We have also received some advice that moving towards a national register is desirable and that that is something that is being discussed at the moment. We are conscious that that takes a long time. Do you think that there is merit in looking at establishing a state register for enduring powers of attorney as an interim measure?

Mr ROCHE: I am just trying to think of the benefits of what that would be, that is all. It is very likely that we will move, I would think. I hope I am not misspeaking, but I am sure that the government has a policy or an election commitment around establishing a register. I think it was for enduring powers of attorney and enduring powers of guardianship. The ALRC, I think, has recommended the register include administration orders. I do not know if they had advance health directives as part of their ambit for the register. But it is very likely we will move, I would think, to some sort of register at some point in the future, especially given governments, including our own, now are committing to a register. It would just be a matter of the duplication if you put in place a state register and then later on there is some sort of national register that comes into play.

The other issue I think the ALRC were quite right in terms of is before you rush to a register, there is a little bit of work that needs to be done. The Australian Law Reform Commission made a number of recommendations around harmonising and consistency of enduring powers of attorney and guardianship laws across Australia. They talked about a common template or a resource that we would use—like a common form, if you like—for all jurisdictions. Recently, the commonwealth government, as part of its commitments when it announced the national plan, also provided money to the Australian Guardianship and Administration Council, which Pauline and I are both members of. They provided funding for some work to be done in this area as a prelude to moving to a register. The Victorian Office of the Public Advocate, I think, are the ones that are going to be doing the work as a result of the funding that came from the commonwealth government around producing a best practice enduring powers of attorney and guardianship resource. They were going to draft a discussion paper about how we might best harmonise this sort of legislation and regulation across the various jurisdictions. I do think a register in itself long term is probably going to happen, but I think there is a little bit of work that would need to be done beforehand, which is what the ALRC has recommended. There are also issues of privacy with the register—who accesses the register. If you make an attorney or a lawyer able to access the register, it is going to be pretty easy to get access to who is on the register because you just hire an attorney, I guess, to then access the register for you. That might not always be a good thing.

Hon ALISON XAMON: Can I ask why would that not be a good thing?

Mr ROCHE: Because people might not necessarily want one child to know that they have appointed the other child as their attorney or a donee under their enduring power of attorney. If you were suspicious, “Does mum have an EPA and is that brother of mine the attorney?”, you could find out by hiring a lawyer and getting the lawyer to access the register. There is just a little bit of work that would need to be done, I would think, beforehand.

Hon ALISON XAMON: But that, surely, would also help shine a light if it turns out that that child might be abusing that power of attorney.

Mr ROCHE: Yes, it could. That is why I am saying there are benefits, but I do not know whether there would be as much benefit going to a state register before a national register. I have not really turned my thoughts to it.

Hon ALISON XAMON: In the way you have described it, which is, can I say, consistent with the way others have, we are talking a significant period of time to try to achieve, firstly, harmonised forms and legislative reforms, and that is before building the infrastructure. What sort of time frame do you think realistically you would be looking at to get a national scheme up and running? Surely we are talking years.

Mr ROCHE: There is a little momentum, though. When I first was appointed Public Trustee probably six years ago and I used to go with my colleagues to meet interjurisdictionally a couple of times a year, there has been a lot of talk of harmonisation in EPAs and it has not happened for all the difficult

reasons that there are. But I think in the last 12 months there has certainly been a lot more momentum. The ALRC report, I think, really will shake up legislators and policymakers, and I think it already is, including a national plan being committed to by the end of this year, which is a very short time frame. So there is momentum building. It will take quite some time; whether it is three years or five years, I am not sure. It is hard to put a time frame on what that would be, but there is certainly goodwill on both sides in terms of protecting the rights of the elderly and making sure that people are not being abused. I think there is goodwill and good intent on both sides, which is a big help in this area.

Mr BOWYER: Can I say something here too? In a lot of these things, the devil is in the detail. For instance, if you are going to add administration orders to the register, at the moment one of the main things you see looking through the Guardianship and Administration Act is that they are very much wanting to protect the privacy of people who have administration orders, and that is why when you see decisions of SAT, people's initials are used rather than their full names. If you are going from that extreme to having a register that anyone can look up and see who is under an administration order, that is a very big step to take, for instance.

[11.50 am]

Mr ROCHE: Also, by itself the register does not achieve much. Just by registering the EPA does not mean someone is not going to misuse it, so there is also the matter of how you would be checking or how you would be policing or how you might be looking at making sure that people are not misusing EPAs. Again, that is more community education and awareness, but the register by itself probably has enormous benefit, but it needs to be a bit more than just a register.

Mr BOWYER: At the moment, for instance, if you want to do a land transaction, you register the EPA at Landgate. The holder of the enduring power of attorney could then quite properly use the enduring power of attorney to sell the property, but the fact that it has been registered does not guarantee where the money is going to end up. The holder of enduring power of attorney could then transfer it into their own bank account, for instance, if not straightaway then at some point in the future.

Mr ROCHE: But it is very good for knowing that there is a current one, so the register would be good from that perspective.

The CHAIRMAN: Good. The next question relates to people complaining about breaches of wills or suspicious amendments to wills. Is there a place that people can lodge such complaints, including your office?

Mr BOWYER: Once the person is dead, it is the Supreme Court. People can challenge the validity of wills in the Supreme Court. Not anyone can do it; you have to have a particular interest to be able to do that. That is a frequent thing, and I think it is going to be more frequent because of the increased incidence of people living with dementia in the community. There are various ways you can challenge a will. One is you can say that it is not valid because, for instance, the person did not have the capacity to make the will, or you can make a claim under the Family Provision Act if you are a particular family member, or you can do both. Sometimes what people will do is let the will go through and make the Family Provision Act claim because that is often the cheaper way, the most cost-effective way, of getting what you want.

The CHAIRMAN: What about if the concern is about the conduct of the executor of the estate—that they are breaching their duties and not fulfilling their duties under the will?

Mr BOWYER: Again, there are a number of things that could be done there. You can ask the solicitor to file their accounts with the Supreme Court, and the Supreme Court is then required to pass that

person's accounts or to consider whether or not to pass the person's accounts. My understanding anecdotally is that that is happening more often these days.

The CHAIRMAN: These are the accounts of the executor?

Mr BOWYER: Yes. The other way is that you can also apply to have the executor removed, and there are cases where that has happened. There are a few different —

The CHAIRMAN: In all of that, you are talking the Supreme Court, and that can be very intimidating for the ordinary Western Australian and also immediately rings of being expensive. Do you have any comments to make in respect of that?

Mr BOWYER: The Public Trustee, we would probably prove more wills than any other organisation in the state, and it is rare that one of our cases will go all the way to a final hearing. I can only think of one situation in recent times where the validity of one of our wills was the subject of a fully-fledged trial and then an appeal to the Court of Appeal, but having said that, the Public Trustee takes considerable precautions when making wills, generally speaking. So a lot of cases do get settled at an early stage. The Supreme Court does encourage early mediation, whether it is when proving the validity of a will or whether it is under the Family Provision Act. One potential problem with that, though, is that sometimes because people know there is going to be mediation, sometimes that may encourage some people just to challenge something and have a bit of a go because they think they will be thrown money at the mediation.

The CHAIRMAN: When you say "your" wills, as in the Public Trustee's wills, does the Public Trustee have a service for drafting wills?

Mr ROCHE: Yes, we do. We would write up to probably 3 000 wills a year.

The CHAIRMAN: And what is the cost of that service?

Mr ROCHE: If you are a concession card holder, it would be about \$50 for a will. If you do not have a concession card, it is around \$340 to \$350. I am sorry; we have to round it up. I think it is around \$343 or something like that at the moment for a non-concession card holder.

Mr BOWYER: There can be extra fees depending if people want things that are more complicated and require more searches to be done, but one thing we do not do, if there is a question about whether a person has the capacity to make the will, we do not charge extra for that. We consider that we could be exploiting someone if we charged fees to consider whether or not —

The CHAIRMAN: Sure.

Mr ROCHE: The majority of wills would be done in the standard time. We allocate an hour and a half.

Mr BOWYER: Or two hours for couples.

The CHAIRMAN: When your office drafts the will for the person, either at the concession rate or otherwise, is the Public Trustee sometimes then appointed as the executor of that will?

Mr BOWYER: Yes. The \$50 only applies if we are the executor or an executor. We can be appointed the executor or, in some cases, the default executor.

The CHAIRMAN: Okay. If the person wants the concession rate, they have to have a concession card and they have to make the Public Trustee their executor.

Mr BOWYER: Yes, although I would have to check, but there could be some concession still even if you do not appoint the Public Trustee, but it is certainly not \$50.

The CHAIRMAN: Sure. On page 5 of your submission it touches on private administrators submitting annual reports. How often does the Public Trustee exempt private administrators from submitting annual reports?

Mr ROCHE: I do not have those figures specifically, but quite regularly. If mum is looking after the affairs and has lodged the accounts two or three years in a row and there has never been a question, to save our workload as well and obviously if mum or dad are doing a really good job, we will exempt them so they do not have to lodge them, and then they will not incur an examination fee each year. But we will wait usually two or three years just to make sure everything is okay and we are happy with the way they are managing as a private administrator and then we would do an exemption. But we would have hundreds that we have exempted, but in terms of how many each year, I would have to provide that for you.

The CHAIRMAN: Is that data readily available?

Mr ROCHE: Yes, it would not be hard to do. I would be happy to take that on, in terms of how many we would have exempted from lodging annual accounts. I can give you that.

The CHAIRMAN: Okay, let us make that question on notice two. I think that covers it with respect to term of reference (e), so if members are happy I will move on to term of reference (f), “assess and review the service delivery and agency responses”. What is the nature of the relationship between the Public Trustee and the State Administrative Tribunal in terms of managing referrals and caseload?

Mr ROCHE: In terms of managing, I guess we get appointed, as I said, up to about 700 orders a year come through to appoint us to new clients. Our relationship is a good one. We obviously go to a number of SAT hearings. We go when there are reviews of SAT orders. In terms of managing caseload, I do not know whether we have any relations with SAT in terms of managing caseload.

Mr BOWYER: No, and when it comes to reviews, sometimes we will go to the hearing and sometimes we will just be available via telephone and it depends. Sometimes the State Administrative Tribunal will ask for a lawyer to be present for a particular hearing and we have a lawyer present for the hearing, but we certainly cannot say to the State Administrative Tribunal, “Could you stop giving us orders, please?”

The CHAIRMAN: Sure. You just take what you are given and what you are ordered to do.

Mr ROCHE: It is a little like that, yes. We are appointed and it would be nice to be not appointed, but unfortunately — they do look hard in terms of seeing if there is an alternative option in terms of appointing a family member, but if there is conflict or dysfunction or some other reason they are worried about it, they will appoint us. It is usually if there is no-one willing, capable or able, they will appoint us as a last resort.

Mr BOWYER: I have been looking recently at how things used to be done. Thirty years ago, a person could be declared infirm by having two doctors fill in certificates which they then gave to the Public Trustee, and the Public Trustee would then sign a certificate and serve it on the person and then the Public Trustee would soon afterwards be managing that person’s finances. Although there was a right to go to the Supreme Court, there was no hearing before an independent body and there were no regular reviews. You were not obliged to get the views of the person and you did not have to look to see if there were less restrictive alternatives. I think it is much better now having an independent body to do that.

Mr ROCHE: We do not have a lot of control at all in terms of getting appointed. It is determined at the application hearing.

Mr BOWYER: The Public Trustee does have the right to seek a review of SAT's orders if it does not like an order, but that does not happen very often.

The CHAIRMAN: That would be to the Supreme Court.

Mr BOWYER: No, it depends. If it is a single member, it can go to a three-member panel, or sometimes what happens is we can say, "Well, there's been a change in circumstances" so we will just take it back to the first member.

Mr ROCHE: They might have only appointed us for a limited specific purpose. We get limited orders and we get plenary orders. The vast majority are plenary but we do get limited orders as well—probably a couple of hundred a year—just to do specific examinations if something does not look right. The person might have the capacity to manage their own pension but they do not have the capacity to deal with the huge loan that they have somehow been involved in that they have suspicions around so they will appoint the Public Trustee to look at that but not take over managing, say, their pension.

[12.00 noon]

The CHAIRMAN: Unlike the Office of the Public Advocate, you do not get appointed by the State Administrative Tribunal to do investigations and to provide recommendations back to them?

Mr BOWYER: As administrator sometimes we get a direction to investigate a particular misappropriation. The tribunal, for instance, in its submission, referred to the case of KRM. In that case, at the end the State Administrative Tribunal made quite detailed directions to the Public Trustee. That is quite unusual—to have directions as detailed as that—but it is quite common to get a direction to investigate a particular transaction.

The CHAIRMAN: What is the nature of the relationship between the Public Trustee's office and WA Police in terms of suspected cases of elder abuse?

Mr ROCHE: We are on APEA together so I guess we are both involved in terms of the alliance for the prevention of elder abuse but in terms of their office and our office we do refer matters to the police and have done. I have brought a couple of case studies, including one where we referred the matter to the police. Again, we do not like to escalate but there are occasions where we can brief them. The difficulty is in briefing them to the point where they think they can actually prosecute or take the matter further. We do refer matters to police but not often.

Mr BOWYER: That is right.

Mr ROCHE: There are so many barriers.

Mr BOWYER: It is very difficult when your best witness cannot give evidence. There are some matters which—the police have mentioned this in their submission—are elder abuse but they are not actually criminal behaviour.

Mr ROCHE: It is a good one—in terms of our relationship with the police. We deal with the police and we do refer matters to the police. We have had successful prosecutions that have gone through the police.

The CHAIRMAN: Are you saying it is pretty easy for the person I am going to call the perpetrator—the perpetrator to rebut any allegations along the lines of, "No, it was a gift" or "I was authorised to do that" or "Mum or Dad told me that that was what they wanted me to do"? In order to unpick that it is very difficult for police because, as you say, the best witness cannot give evidence because they no longer have capacity.

Mr BOWYER: Yes. Also, sometimes people under an enduring power of attorney do have very broad powers to do things for people so sometimes the police view it as a civil matter rather than as a criminal matter.

Mr ROCHE: Having said that, when we raise the bar and talk about prosecution or talk about involving the police, that has been very helpful in terms of getting settlements and mediating good outcomes. We had one recently.

Mr BOWYER: There are limits to what you can do. You cannot just say, “If you don’t pay it back, we’ll report you to the police.” We do not do that. There was a matter where SAT put in its order that the Public Trustee consider reporting a matter to the police. We did not make a threat but it was there. I suspect that probably may have brought people to the table in circumstances where they may not have come to the table, although I do not know. Perhaps they would have done it anyway.

The CHAIRMAN: Term of reference (h) is the initiative to empower older persons to better protect themselves. Does the Public Trustee encourage clients to appoint family members or partners as attorneys?

Mr ROCHE: The number one thing we would recommend is to choose wisely and if you have any doubts whatsoever, do not appoint that particular person as your attorney. But we often have mum and dad come in and appoint each other as attorney.

Hon ALISON XAMON: It could be shared wealth anyway.

Mr ROCHE: There are some people who—you would be quite happy for them to make medical treatment decisions for you but they are just bad with money. If they cannot handle their own money, how are they going to handle someone else’s money?

Hon ALISON XAMON: So there is no straight answer?

Mr ROCHE: No. It is really just to choose wisely and if there is any doubt, do not appoint and appoint, perhaps, someone independent such as the Public Trustee.

The CHAIRMAN: A person could very well be an excellent person to hold an enduring power of guardianship but due to their own skill set or lack thereof, it would be inappropriate for an enduring power of attorney.

Mr ROCHE: It also depends on the complexity of the estate. If mum is in care and you are just talking about a pension and a payment to the aged-care provider, or even if mum is still living at home and she does not have a lot of assets, she does not have two investment properties, she does not have a self-managed super fund, she does not have bank or Wesfarmers shares. It depends, too, on who you would choose depending on the complexity of your estate and your affairs.

Mr BOWYER: There is one other thing that you can do. Most enduring powers of attorney take effect straight away and—anecdotally, that is what it would be. But you can appoint someone and it only takes effect once SAT has made a declaration that the person does not have capacity. At least the person has fronted to SAT and they can have a look at them.

The CHAIRMAN: I know that we are running very short on time. The last term of the terms of reference is dealing with any other matter. You did touch on earlier that you would be going overseas to look at supported decision-making.

Mr ROCHE: Yes. I was very interested when this whole concept of supported decision-making started to—my own awareness started to be raised two or three years ago. There is an international shift—certainly in commonwealth countries such as the UK and Canada. That all emanates out of the United Nations Convention on the Rights of Persons with Disabilities, which I think was about

2006. I think Australia signed up in 2007 and might have ratified it in about 2008. The Australian Law Reform Commission report—in the recent one, the elder abuse one, they certainly talk more about moving to a supported decision-making model. Rosalind Croucher, who is the president, also did another report in 2014 on equality and capacity and also made a number of recommendations about moving to a supported decision-making model. I could that see this is somewhere Australia might go to in the future so a couple of years ago—it is probably going back 18 months ago now, even before the Australian Law Reform Commission had tabled their report—I put in for a scholarship or a fellowship or whatever you call it and was very fortunate to, after a selection process, be awarded it. Later this year I want to get on the ground and have a little look at how it operates. They talk about, with supported decision-making, appointing informal supporters and representatives. I want to have a look on the ground and see what sort of safeguards are in place to ensure that the informal supporters are not exploiting or taking advantage of those people under a supported decision-making model and how does a supported decision-making model in those countries—Canada had probably been the main one at the forefront—differ from how we operate here?

Even in WA, we may well be a best-interest jurisdiction, which is what we are, in substituted decision-making, but there is already here a premise of capacity and there is already a presumption of capacity before SAT. They have to have that in mind. They have to look very hard to see if there are any willing, capable people who could provide and be appointed rather than the Public Trustee. You already have some of that in place. I am still keen in those countries to have a look at where do they find the supporters because, to be honest, the only reason I am appointed is because they cannot find anyone. In those countries are the informal supporters the Advocates of the world? Are they appointing organisations or are they appointing individuals? I am very fortunate to be able to go and have a little look at how the model works in those countries. It is like a continuum. I think there is always going to be a place for substituted decision-making. It is a good thing, I think, to move to a human rights-based model and will and preference, which is all about supported decision-making. At the end of the day, if Michael has a full-blown dementia, I am not really going to be in a position to support Michael to make any decisions because I am going to have to step into his shoes and make those decisions. They are going to have to coexist but I think perhaps moving more towards a supported decision-making model is something that is going to happen in Australia.

There are already pilots. I think I mentioned in my submission, I know that in Victoria in the Office of the Public Trustee and the Public Advocate, there was about an 18-month pilot looking at how we can best support or look at concepts around supported decision-making. I think they were doing training for clients on basic finances and how to manage a budget to better provide support to be able to—in a supported decision-making framework—allow them to make more decisions.

The problem is that for the vast majority of the clients—the 600 or 700 I get a year—we have on occasions tried to get people to see if we could give some responsibility back to clients to manage some of their own affairs, and we have tried that in circumstances, but in a lot of them, we have not been able to have success. There is a reason we are appointed.

[12.10 pm]

Hon ALISON XAMON: Yes, but I know that this is an area that is also being looked at quite heavily in the mental health sector. There is lots of scope there.

Mr BOWYER: I would be willing to bet that there is, currently in Western Australia, more supported decision-making than substitute decision-making.

Hon ALISON XAMON: I agree.

Mr BOWYER: The reason I say that is that, according to stats, there are over 33 000 people in WA with dementia, but there are only about 7 000 people under administration orders, and, of course, dementia is just one form of mental disability. I suspect that there are a lot of people in WA who are making decisions with the support of other people.

Mr ROCHE: There is definitely momentum building, and those two Australian Law Reform Commission reports, 2014 and last year's, on elder abuse are certainly going to continue to, I think, provide momentum to move more to a supported decision, and there is a huge push within the disability sector to do that.

Hon ALISON XAMON: Yes, and mental illness.

Mr ROCHE: Yes, you are absolutely right. I think that is a good thing; the two will always coexist.

Mr BOWYER: Our Court of Appeal has said that there are times when you cannot work out what the wishes of a person are and, secondly, there are times when you cannot carry out those wishes.

Mr ROCHE: Finding and identifying the supporters is going to be crucial, because I know SAT looks hard before they appoint Pauline and I. They will look hard to see if there are any alternatives, but on the vast majority of occasions, there is nobody willing or able, or there is conflict or dysfunction, and that is why they end up having to appoint us.

The CHAIRMAN: How long will you be away on this fellowship?

Mr ROCHE: I am away for about six weeks, travelling to London, Edinburgh, Vancouver, Hong Kong and then home.

The CHAIRMAN: Okay, and then the outcome of that, will that be —

Mr ROCHE: I have to write a report, so it is a bit like going back to uni, when I did my masters—that sort of stuff. There is always a price to pay. I guess it is to go and have a little look, which is really good, but the whole idea of the Churchill Fellowship is that it was set up to benefit the community. A lot better people than me have been awarded fellowships, who are far cleverer—in law, medicine, the arts, music—I just happened to put one in and they thought this was, on its merits, worth having a look at. I will come back and will definitely have to write a report.

The CHAIRMAN: Very good. Well, I have well and truly extended the time, so we just want to thank you both for your attendance today. The transcript of this hearing will be forwarded to you for correction. If you believe that any corrections should be made because of typographical or transcription errors, please indicate these corrections on the transcript.

You did take a couple of questions on notice.

Mr ROCHE: That will be in the *Hansard*.

The CHAIRMAN: The committee requests that you provide your answers to questions taken on notice when you return your corrected transcript of evidence, and we will write to you accordingly. If you want to provide additional information or elaborate on particular points, you may provide supplementary evidence for the committee's consideration when you return your corrected transcript of evidence. Thank you both very much.

Hearing concluded at 12.13 pm
